OCT 2 7 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of

Inventor	:	O'DEA
Appln. No.	:	10/796,585
Conf. No.:	:	1115
Filed:	:	March 9, 2004
Title:	:	APPARATUS AND METHOD FOR RELIEVING DYSNEA
Group Art Unit	:	Unknown
Examiner	:	Unknown
Docket No.	:	98-58 C1

*   *   *   *   *

October 27, 2004

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION
(Filing Date Granted)

Hon. Commissioner of Patents
  and Trademarks
Alexandria, VA 22313-1450

Sir:

In response to the Notice to File Missing Parts of Application, filing date granted, dated August 27, 2004, applicant hereby submits the following:

1. A copy of the Notice to File Missing Parts, filing date granted, dated August 27, 2004 (Form PTO-1533);

2. A Fee Transmittal Form, submitted in duplicate authorizing the Commissioner to charge the missing filing fee of $770.00 and the surcharge for late filing fee of $130.00 to deposit account no. 50-0558; and

3.   A Preliminary Amendment.

The Commissioner is hereby authorized to charge the missing filing fee and the surcharge for late filing fee required under 37 C.F.R. § 1.16(e) to deposit account no. 50-0558. The Commissioner is also authorized to charge any other deficiency in the indicated fees or credit any overpayment to deposit account no. 50-0558.

Respectfully submitted,

By _Michael W. Haas_

Michael W. Haas
Reg. No.: 35,174
Tel. No.: (724) 387-5026
Fax No.: (724) 387-5021

RESPIRONICS INC.
1010 Murry Ridge Lane
Murrysville, PA 15668-8525

Certificate of Mailing by "Express Mail"

EL 997387134 US
_____
"Express Mail" label number

October 27, 2004
_____
Date of Deposit

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service on the date indicated above and is addressed to:

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450.

_____
Signature of person mailing correspondence

Michael W. Haas
_____
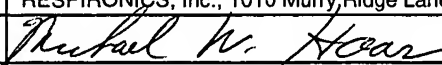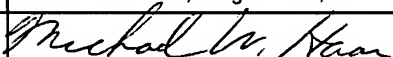Typed or printed name of person mailing correspondence

Note: Each paper must have its own certificate of mailing by "Express Mail".

Mail Stop Missing Parts **TRANSMITTAL** **FORM** *(To be used for all correspondence after initial filing)*	Application Number	10/796,585
	Filing Date	March 9, 2004
	Confirmation Number	1115
	Inventor(s)	O'DEA
	Group Art Unit	Unknown
Express Mail Label No.: EL 997387134 US	Examiner	Unknown
Total Number of Pages in This Submission: 13	Attorney Docket No.	98-58 C1

ENCLOSURES *(check all that apply)*

☒ Fee Transmittal Form *(submit in duplicate)*
   ☐ Fee Attached $ _____
   Check No.: _____
☒ Amendment / Response
   ☐ After Final
   ☐ Affidavits / Declaration(s)
☐ Extension of Time Request
☐ Information Disclosure Statement
   ☐ Form PTO-1449
   ☐ Cited References
   ☐ Search report
☐ Drawing(s): Number of Pages _____
Number of Figs. _____ and cover sheet
   ☐ Formal
   ☐ Informal

☐ Assignment Papers
   ☐ Cover Sheet ·
☐ Drawing Change Authorization Request and Amended Figure(s)
☐ Request for Return of PTO-1449 Forms
☐ Petition to the Commissioner
☐ To Convert a Provisional Application
☐ Power of Attorney, Revocation Change of Address
☐ Terminal Disclaimer(s)
☐ Certified Copy of Priority Document(s)
☒ Certificate of Mailing by Express Mail

☐ Other Enclosure(s): _____

☐ Issue fee Transmittal Form PTOL-85(b) + (c) and Cover Sheet
☐ After Allowance Communication to Group
☐ Appeal Communication to Board of Appeals and Interferences
☐ Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
☐ Request for Continued Examination (RCE)
☐ Status Request Letter
☐ Small Entity Statement
☐ Request for Refund
☒ Response to Missing Parts / Incomplete Application

Current Due Date: October 27, 2004

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Individual and Company	Michael W. Haas, Reg. No. 35,174 RESPIRONICS, Inc., 1010 Murry Ridge Lane, Murrysville PA, 15668
Signature	*Michael W. Haas*
Date	**October 27, 2004**

CERTIFICATE OF MAILING

I hereby certify that this correspondence and all enclosures are being deposited with the United States Postal Service with sufficient postage as "Express Mail Post Office to Addressee" in an envelope addressed to:
   Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date: <u>October 27, 2004</u>, Express Mail Label No. <u>EL 997387134 US</u>.

Typed Name	Michael W. Haas, Reg. No. 35,174		
Signature	*Michael W. Haas*	Date	October 27, 2004

FEE TRANSMITTAL
(Effective 10/01/2003)

OCT 2 7 2004

"Express Mail" Label No. EL 997387134 US

Application Number	10/796,585
Filing Date	March 9, 2004
First Named Inventor	O'DEA
Confirmation Number	1115
Group Art Unit	Unknown
Examiner's Name	Unknown
Attorney Docket No.	98-58 C1
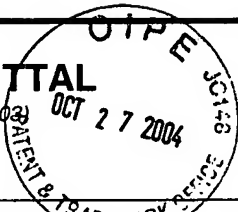
TOTAL AMOUNT OF PAYMENT $ 900.00

METHOD OF PAYMENT

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit Account Number: **50-0558**

Deposit Account Name: **Respironics, Inc.**

☒ Charge any additional fee required under 37 C.F.R. §§ 1.16, 1.17 1.19 and 1.20

☐ Charge the Issue Fee set forth in 37 C.F.R. § 1.18

2. ☐ Payment Enclosed:

Check (Check No. _____)

FEE CALCULATION (fees effective 10/01/2004)

1. FILING FEE

Large Entity Fee ($)	Small Entity Fee ($)	Fee Description	Fee Paid
1001 790	2001 395	Utility filing fee	770.00
1002 350	2002 175	Design filing fee	
1003 550	2003 275	Plant filing fee	
1004 790	2004 395	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	

SUBTOTAL (1) $ 770.00

2. CLAIMS

		Extra Claims	Fee from Below	Fee Paid
Total Claims	3	-3 *	0 x 18 =	0.00
Ind. Claims	14	-20 *	0 x 88 =	0.00
Multiple Dependent Claims add			300 =	0.00

* Enter Highest Number Previous Paid For

Large Entity Fee ($)	Small Entity Fee ($)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 88	2201 44	Independent claims in excess of 3
1203 300	2203 150	Multiple dependent claim
1204 86	2204 43	Reissue independent claims over original patent
1205 18	2205 9	Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) $ 0.00

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Fee Code	Entity Fee ($)	Small Fee Code	Entity Fee ($)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or declaration	130.00
1052	50	2052	25	Surcharge - late provisional filing fee or or cover sheet	
1811	100	1811	100	Certificate of Correction	
1812	2,520	1812	2,520	For filing a request for reexamination	
576	25	576	25	Additional filing receipt, duplicate or corrected due to applicant error	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for response within first month	
1252	430	2252	215	Extension for response within second month	
1253	980	2253	490	Extension for response within third month	
1254	1,530	2254	765	Extension for response within fourth month	
1255	2,080	2255	1,040	Extension for response within fifth month	
1401	340	2401	170	Notice of Appeal	
1402	340	2402	170	Filing a brief in support of an appeal	
1403	300	2403	150	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive unavoidably abandoned application	
1453	1,370	2453	685	Petition to revive unintentionally abandoned application	
1501	1,370	2501	685	Utility issue fee (or reissue)	
1502	490	2502	245	Design issue fee	
1814	110	2814	55	Statutory Disclaimer	
1460	130	1460	130	Petitions to the Director	
1807	50	1807	50	Petitions related to provisional applications	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of property)	
1809	790	2809	395	Filing a submission after final rejection (37 C.F.R. § 1.129(a))	
1801	790	2801	395	Request for Continued Examination	

Other Fee (specify) _____

SUBTOTAL (3) $ 130.00

SUBMITTED BY

Typed or Printed Name	Michael W. Haas	Reg. Number	35,174
Signature	*Michael W. Haas*	Date: October 27, 2004	Deposit Account Number 50-0558

RI-104 A (Rev. 10/2004)

OIPE

OCT 27 2004

10-28-04
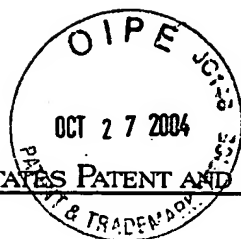
UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/796,585	03/09/2004	John O'Dea	98-58 C1

30031
MICHAEL W. HAAS, INTELLECTUAL PROPERTY COUNSEL
RESPIRONICS, INC.
1010 MURRY RIDGE LANE
MURRYSVILLE, PA 15668

CONFIRMATION NO. 1115
FORMALITIES LETTER

OC000000013658859

Date Mailed: 08/27/2004

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ 770 to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is $900 for a Large Entity

- **$770** Statutory basic filing fee.
- **$130** Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

10796585

500558

790.00 DA
130.00 DA

10/29/2004 RMEBRAHT 00000051

01 FC:1001
02 FC:1051

A copy of this notice __MUST__ be returned with the reply.

T. TU
_____
Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE